

REMARKS

Claims 11-25 are pending in the application for the Examiner's review and consideration.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

Claims 11-19, 21, and 23-24 were rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over U.S. Patent No. 5,238,587 to Smith *et al.* ("Smith"). Applicant respectfully traverses the rejection.

Claims 11-19, and 23-24 were rejected under 35 U.S.C. §103 as being allegedly unpatentable over U.S. Patent No. 5,876,462 to Weller *et al.* ("Weller"). Applicant respectfully traverses the rejection.

On pages 2-3 of the Office Action under the rejections to Smith and Waller, it alleges that it would have been obvious to one having ordinary skill in the art at the time the invention was made to eliminate the bag and its function in order to save costs, since it has been held that omission of an element and its function in a combination where the remaining elements perform the same functions as before involves only routine skill in the art. Applicant respectfully submits under Glade v. Walgreen Co., 50 U.S.P.Q. 407, 122 F.2d 306, that the elimination of an element, even where the same general result is achieved, would not preclude receiving a patent for a combination. The court said, at 122 F.2d page 309:

We find nothing in the statute, or in the decisions cited, which would preclude plaintiff from receiving a patent for a combination, even though it produced the same result as other such devices, if it produced that result with fewer elements that had theretofore been used or thought necessary. This is precisely what plaintiff did. Theretofore others had produced the same general result with five or more elements, whereas plaintiff produced the same general result more efficiently with three elements. It is not fair to say that Martin uses the same old elements as those before him, for there are at least two of the old elements used in prior devices which Martin does not use at all. In other words, he produces the same result in a more efficient and facile manner by making three of those old elements accomplish the same general result as five or more had theretofore don . (Emphasis added)

In the present invention, Applicant respectfully submits that the present invention retains the dry cleaning/refreshment function even though an element (i.e., the bag) is eliminated from the kit and/or the system and/or the method. Moreover, the present invention provides the additional benefits of not adding new wrinkles and/or removing existing wrinkles from the fabrics being treated. Thus, the present invention is non-obvious over Smith and Waller. For the above reasons, Applicants respectfully request that the above rejection under 35 U.S.C. §103(a) be reconsidered and withdrawn.

With regard to all claims not specifically mentioned, these are believed to be allowable not only in view of their dependency on their respective base claims and any intervening claims, but also for the totality of features recited therein.

All claims are believed to be in condition for allowance. Should the Examiner disagree, Applicants respectfully invite the Examiner to contact the undersigned attorney for Applicants to arrange for a telephonic interview in an effort to expedite the prosecution of this matter.

CONCLUSION

In view of the foregoing amendments and accompanying remarks, reconsideration of the application and allowance of all claims are respectfully requested. A one-month extension of time is believed to be due with this submission. Please charge the fee for this extension and any other required fee to Procter & Gamble Deposit Account No. 16-2480.

Respectfully submitted,

By 

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